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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/684,016	10/10/2000	David K. Kovalic	16517.031	9497

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)**

Application No.

09/684,016

Applicant(s)

KOVALIC ET AL.

Examiner

Shubo (Joe) Zhou

Art Unit

1631

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 01 April 2004 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file a complete new brief in compliance with 37 CFR 41.37 within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☒ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed or confirmed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

It is pointed out that while this Notice is in the format pursuant to 37 CFR 41.37, since the original appeal brief was filed before the effective date for 37 CFR 41.37, in response to this Notice, an amended appeal brief in complete compliance with either the former 37 CFR 1.192(c) or with 37 CFR 41.37(c) will be acceptable by the Office.

In the previous Notification of Non-Compliance With 37 CFR 1.192(c) mailed 04 March 2004, it is pointed out that appeal brief filed 17 November 2003 did not comply with 37 CFR 1.192(c)(3) because the brief does not contain a statement of the status of all claims, pending or canceled. Specifically, the status of claims 1-10 is not stated. The Notification also pointed out that the brief included the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet the it did not present arguments in support thereof in the argument section of the brief. The brief filed 01 April 2004 does not correct either of the problems.



John S. Brusca 22 March 2005
JOHN S. BRUSCA, PH.D
PRIMARY EXAMINER

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Continuation Sheet (Patents and Trademark-462)

09/684,016
Application No ~~08/442,233~~

U.S. Patent and Trademark Office
PTOL-462 (Rev. 9-04)

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)

Part of Paper No. 032205